

AMENDED IN SENATE MAY 5, 2004  
AMENDED IN SENATE APRIL 20, 2004  
AMENDED IN SENATE APRIL 12, 2004

**SENATE BILL**

**No. 1434**

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**Introduced by Senator Ackerman**  
**(Coauthors: Senators Battin and Margett)**  
(Coauthors: Assembly Members Benoit and Haynes)

February 19, 2004

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An act to amend ~~Section 4181~~ *Sections 4181 and 13220* of the Fish and Game Code, relating to ~~rabbis~~ *fish and game*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1434, as amended, Ackerman. ~~Rabbits taking~~ *Fish and game: rabbits: Fish and Game Preservation Fund.*

~~Under~~

(1) *Under* existing law, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, or gray squirrels, may apply to the Department of Fish and Game for a permit to kill those mammals. The department, upon satisfactory evidence of the damage or destruction, is required to issue a revocable permit for the taking and disposition of the mammals.

This bill would amend that provision to authorize any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by cottontail or brush rabbits, to apply to the department for a permit to kill them.

*The bill would make an appropriation by imposing additional duties on the department relating to the issuance of permits to kill cottontail and brush rabbits.*

*(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department for payment of refunds of sums it determines have been erroneously deposited in the fund and for the payment of all necessary expenses incurred in carrying out the Fish and Game Code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish, and to the Fish and Game Commission to pay the compensation and expenses of the commissioners and employees of the commission.*

*This bill would instead, commencing with the 2005–06 fiscal year, make the money in the Fish and Game Preservation Fund available for expenditure by the department and the commission only upon appropriation by the Legislature for those purposes.*

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4181 of the Fish and Game Code is  
2 amended to read:  
3 4181. (a) Except as provided in Section 4181.1, any owner or  
4 tenant of land or property that is being damaged or destroyed or is  
5 in danger of being damaged or destroyed by elk, bear, beaver, wild  
6 pig, cottontail or brush rabbits, or gray squirrels, may apply to the  
7 department for a permit to kill the mammals. Subject to the  
8 limitations in subdivisions (b) and (d), the department, upon  
9 satisfactory evidence of the damage or destruction, actual or  
10 immediately threatened, shall issue a revocable permit for the  
11 taking and disposition of the mammals under regulations adopted  
12 by the commission. The permit shall include a statement of the  
13 penalties that may be imposed for a violation of the permit  
14 conditions. Mammals so taken shall not be sold or shipped from  
15 the premises on which they are taken except under instructions  
16 from the department. No iron-jawed or steel-jawed or any type of  
17 metal-jawed trap shall be used to take any bear pursuant to this  
18 section. No poison of any type may be used to take any gray  
19 squirrel pursuant to this section. The department shall designate  
20 the type of trap to be used to ensure the most humane method is



1 used to trap gray squirrels. The department may require trapped  
2 squirrels to be released in parks or other nonagricultural areas. It  
3 is unlawful for any person to violate the terms of any permit issued  
4 under this section.

5 (b) The permit issued for taking bears pursuant to subdivision  
6 (a) shall contain the following facts:

7 (1) Why the issuance of the permit was necessary.

8 (2) What efforts were made to solve the problem without  
9 killing the bears.

10 (3) What corrective actions should be implemented to prevent  
11 reoccurrence.

12 (c) With respect to wild pigs, the department shall provide an  
13 applicant for a depredation permit to take wild pigs or a person  
14 who reports taking wild pigs pursuant to subdivision (b) of Section  
15 4181.1 with written information that sets forth available options  
16 for wild pig control, including, but not limited to, depredation  
17 permits, allowing periodic access to licensed hunters, and holding  
18 special hunts authorized pursuant to Section 4188. The department  
19 may maintain and make available to these persons lists of licensed  
20 hunters interested in wild pig hunting and lists of nonprofit  
21 organizations that are available to take possession of depredating  
22 wild pig carcasses.

23 (d) With respect to elk, the following procedures shall apply:

24 (1) Prior to issuing a depredation permit pursuant to  
25 subdivision (a), the department shall do all of the following:

26 (A) Verify the actual or immediately threatened damage or  
27 destruction.

28 (B) Provide a written summary of corrective measures  
29 necessary to immediately alleviate the problem.

30 (C) Determine the viability of the local herd, and determine the  
31 minimum population level needed to maintain the herd.

32 (D) Ensure the permit will not reduce the local herd below the  
33 minimum.

34 (E) Work with affected landowners to develop measures to  
35 achieve long-term resolution, while maintaining viability of the  
36 herd.

37 (2) After completing the statewide elk management plan  
38 pursuant to Section 3952, the department shall use the information  
39 and methods contained in the plan to meet the requirements of  
40 subparagraphs (C), (D), and (E) of paragraph (1).

1     SEC. 2.   Section 13220 of the Fish and Game Code is amended  
2     to read:

3     13220.   Except as provided in Section 13230, the money in the  
4     Fish and Game Preservation Fund, *commencing with the 2005–06*  
5     *fiscal year, is appropriated as follows available for expenditure,*  
6     *upon appropriation by the Legislature, for all of the following*  
7     *purposes:*

8     (a) To the department for payment of refunds of sums  
9     determined by it to have been erroneously deposited in the fund,  
10    including, but not limited to, money received or collected in  
11    payment of fees, licenses, permits, taxes, fines, forfeitures, or  
12    services.

13    (b) To the department for expenditure in accordance with law  
14    for the payment of all necessary expenses incurred in carrying out  
15    this code and any other laws for the protection and preservation of  
16    birds, mammals, reptiles, and fish.

17    (c) To the commission for expenditure in accordance with law  
18    for the payment of the compensation and expenses of the  
19    commissioners and employees of the commission.

